

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

SACRAMENTO GRAZING	)	
ASSOCIATION, INC., <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	No. 04-786 L
v.	)	
	)	Senior Judge Loren Smith
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
	)	

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**NOTICE OF PROPOSED AGENDA**

In anticipation of the status conference scheduled for July 8, 2020, counsel for the United States submit the following items as an agenda for the Court's consideration:

1. Trial scheduling. The Parties conferred regarding whether it is prudent to set a date for the trial. Plaintiffs believes the Court should set a date for the trial. The United States believes a further stay is advisable.
  - a. The United States notes that New Mexico remains under a public health emergency order.<sup>1</sup> The majority of the United States likely fact and expert witnesses are in their 70s and 80s or otherwise in a category identified by the Centers for Disease Control as "People Who Are at Higher Risk for Severe Illness" as a result of Covid-19.<sup>2</sup>
  - b. The United States also notes for scheduling purposes that co-counsel for the United States Marissa Piropato will be unavailable for at least eight weeks beginning in September as a result of childbirth and associated medical leave.

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<sup>1</sup> See <https://cv.nmhealth.org/public-health-orders-and-executive-orders/>

<sup>2</sup> See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>; <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html>

2. Reconsideration of 2017 liability ruling. At the status conference of May 21, 2020, the Court stated “if there is reason to reconsider the previous decision that Judge Braden made, the Court is certainly willing to consider that....” *See also* ECF No. 254 at 2 (reserving the right to vacate the November 3, 2017 liability decision). The Court further explained that “in most cases” a finding of a regulatory taking “will not allow you to have” a physical taking. *Id.* In light of these statements and the delay in the onset of trial, the United States believes there are compelling reasons to reconsider the 2017 liability decision, and that such reconsideration will promote the most efficient resolution of this suit. The United States proposes to file a motion for reconsideration consistent with the Court’s statements and seeks guidance from the Court on the preferred scope and timing of that motion.

Dated: July 7, 2020

Respectfully submitted,

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